

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MAJOR BOB MUSIC, UNIVERSAL MUSIC
CORPORATION, UNIVERSAL-POLYGRAM
INTERNATIONAL PUBLISHING, INC.,
PERREN VIBES MUSIC INC., J. ALBERT &
SON (USA) INC., EMI APRIL MUSIC INC.,
NEW SEA GAYLE MUSIC and
MORGANACTIVE SONGS, INC.,

ORDER

09-cv-341-slc

Plaintiffs,

v.

GENE ROBERT HEIMAN,

Defendant.

On August 20, 2009, this court attempted to hold the telephonic preliminary pretrial conference. *Pro se* defendant Gene Heiman did not participate. Counsel for plaintiff reported that as of August 5, 2009, she had been advised that Mr. Heiman was in the hospital. She sent him a letter there explaining what was to happen at the August 20 telephonic hearing and asking for a response, but received nothing.

This is not particularly surprising given the tone of the undated handwritten letter that Mr. Heiman sent "To Whom This Concerns" in which he angrily demanded that plaintiff and its attorneys stop bothering him and leave him alone. Mr. Heiman indicated fairly clearly that he has no interest in responding to plaintiff's allegations and thinks this whole lawsuit is horsefeathers (although he used a different barnyard term).

Although a defendant in a federal civil lawsuit has an absolute right to participate in all proceedings, and although this court has a practice of engaging all *pro se* parties in an informational conversation to explain the way things work in this court, this court would never force a civil case defendant to participate in the proceedings. This, however, does not mean the case is going away. When defendants fail to answer or participate, the usual response from plaintiffs is a motion for default judgment, which the court often will grant, particularly if the defendant does not respond to it. If this is the path that Mr. Heiman chooses to take, that is up to him. At this point, however, I have rescheduled the telephonic preliminary pretrial conference for September 9, 2009, at 10:00 a.m., with counsel for plaintiff setting up the conference call to court chambers. During this telephone call, I will set the schedule for further proceedings in this case whether Mr. Heiman participates or not. If Mr. Heiman chooses to participate, I will explain to him the way things work in federal civil litigation and answer any questions he has about that process. If Mr. Heiman chooses to hire an attorney, then that attorney can represent him at this telephonic conference. But this lawsuit will go forward whether Mr. Heiman chooses to participate in it or not.

Entered this 20th day of August, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge